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09/731,437	12/06/2000	Randy Oxley	14351-3	8362
7590 12/01/2005			EXAMINER	
James C. Nemmers P.O. Box 2107 Cedar Rapids, IA 52406			CRONIN, STEPHEN K	
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			3727	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/731,437
Filing Date: December 06, 2000
Appellant(s): OXLEY, RANDY

MAILED

DEC 01 2004

Group 3700

Ryan N. Carter
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 18, 2004 and as supplemented on September 7, 2005 appealing from the Office action mailed May 4, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 6-10, 13, 21, 22, 24-26, 28, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones.

In accordance with MPEP 2111, Jones discloses a holder (10) structurally meeting the limitations of the claims and capable of supporting a stringed bow comprising:

An adjustable support member (24, Figure 4);

An adjustable spacing member (See APENDIX in final rejection mailed May 4, 2004) combined with the support member and extending inwardly and upwardly therefrom;

An engagement member (20) combined with the spacing member;

The support member comprises a wall to the same degree claimed;

The support member wall has an opening (Figure 2) formed therein capable of accommodating an arrow;

The support member comprises two or more support arms (Figure 2);

The spacing member comprises a wall or arm having an inward section and an outward section (See APENDIX);

The engagement member comprises a wall having at least two openings (16) formed therein;

The engagement member further comprises a strap (18);

The support member comprises an inward section and an outward section, the sections forming an upwardly concave surface (See APPENDIX);

The upwardly concave surface is rounded (See APPENDIX);

The support member further comprises a bottom side connected to the inward section and the outward section and extending there between (See APPENDIX);

The support member inward section is adjustable (See APPENDIX); and

The spacing member extends the support member outwardly at least 2 centimeters (Figures 1 and 4), to the same degree claimed.

(10) Response to Argument

In response to applicant's arguments directed to claims 1, 9 and 10, "Jones does not disclose or suggest a "spacing member."". The examiner has clearly pointed out the portion of Jones' device that structurally meets the claimed "spacing member" in the APPENDIX attached to the final rejection mailed May 4, 2004. The examiner has given the claims the broadest reasonable interpretation of the claimed structure and applied Jones accordingly. In view of the claims lack of further specificity regarding this structure, the portion of Jones identified meets the claimed structural limitation. As to applicants argument directed to the specification stating "a spacing member must "extend [the] support [] a selected distance from a hunter's body and below the hunter's waist....", it is noted that the claims are not interpreted in light of the specification. Further, the examiner has "specified these distances" to be those shown by Jones in applying the Jones device to applicants' claims. In response to applicants' argument that the "spacing member" of Jones does not "extend inwardly" from the "support member", it is noted that applicant elected the species of Figure 7 for prosecution in this application in the response filed July 15, 2002. Jones has been applied in a manner that is consistent with this embodiment of the disclosed invention. Specifically the spacing member of Jones is both inward and upward if the support member of Jones.

In response to applicants arguments directed to claims 9 and 10 that “Jones clearly does not disclose a spacing member wall or arm having inward and outward sections.”, it is again noted that applicant elected the species of Figure 7 for prosecution in this application. Claims 9 and 10 were elected as readable on this figure. The claims state that the “outward section being combined with the engagement member” and the “inward section being combined with the engagement member”. When viewing applicants elected species and the claim limitations as they are presented, they are fully readable on the device of Jones as identified.

In response to applicants arguments directed to claim 26 that the “support member inner section” is not adjustable, it is noted that Jones’ device may be made of a “thermoplastic material” which can be heated and reformed to hold any shaped tool head to be supported (see column 3 lines 35 – 47). A user therefore could readjust the device of Jones in any manner desired, including the “support member inner section”.

In response to applicants arguments directed to claims 28 and 29, the spacing member of Jones extends the support member of Jones outwardly in the same manner as the species depicted by figure 7. Also, since the Jones device can be reformed in the manner as set forth in column 3 lines 35 – 47, a user could adjust the device of Jones to any outward extension deemed necessary, including the 2 centimeters claimed by applicant.

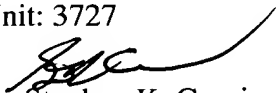
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

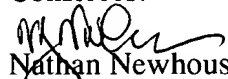
Respectfully submitted,

Art Unit: 3727



Stephen K. Cronin
Primary Examiner
GAU 3727

Conferees:



Nathan Newhouse
Supervisory Primary Examiner
GAU 3727



Jes Pascua
Primary Examiner
GAU 3727